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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,983	11/13/2003	Curtis Lee Carrender	E-1879 (130105.422)	7339
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EXAMINER				
ADE, OGER GARCIA				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/712,983

Applicant(s)

CARRENDER ET AL.

Examiner

GARCIA ADE

Art Unit

3687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendment filed on **02.03.2009** has been considered. Applicants amended claims 1-5, 8-12, and 15.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1-5, and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Correction and clarification are required.

3. The italicized clauses are essentially method limitations or statements or ***intended or desired use*** and are being examined as if the apparatus were capable of performing the functions described in said clauses. Thus, these claims as well as other statements of ***intended use*** do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

4. The italicized statements of ***intended or field of use*** clauses provide language that suggests or makes optional but does not require steps to be performed or does not limit the scope of a claim or claim limitation (MPEP § 2106(II,C)). Accordingly, the

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metes and bound of the claim can not be ascertained by one having ordinary skill in the art.

5. **Claims 6, 7, and 9-11** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention based on their dependency on **claims 5 and 8** respectively.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. **Claim 1-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Issacman et al. [US 6,127,928], in view of Streetman [US 2004/0054570 A1], and further in view of Kato et al. [US 2003/0014143].

As per claims 1-5, and 8, Issacman discloses a *device for use* in delivering articles [see filed of the invention (e.g. ***devices and methods for locating and tracking***)], comprising:

- a passive electromagnetic transponder formed on a flexible substrate and configured to store and reflect information [as illustrated in figure 4, read as: Desktop exciter 26 may be coupled to optical scanner 27, which ***reads/captures alpha numerical/bar code and/or RFID information***, which may be, for example, associatively ***stored in a database***].

Issacman does not explicitly disclose storing information regarding at least delivery cost and routing information, and in response to electromagnetic signals from a plurality of transceivers along a delivery route, the transceivers configured to process the information stored in the transponder to sort, route, or both sort and route the articles during delivery. However, Streetman discloses a logistics planning information system that store information regarding delivery cost [see paragraph 30, via ***computer network 120***], and a computer system having one or more user interfaces is provided to interact with a routing data consolidator and a routing engine [see abstract].

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Issacman to include Streetman system for storing information regarding delivery cost and routing information. Such a modification

would provide a system and method for consolidating necessary delivery and routing information and generating one or more logistics plans for each delivery [see summary of the invention].

Issacman and Streetman disclose all elements per claimed invention as mentioned above. Issacman and Streetman do not explicitly disclose in response to electromagnetic signals from a plurality of transceivers along a delivery route, the transceivers configured to process the information stored in the transponder to sort, route, or both sort and route the articles during delivery.

However, Kato discloses in response to electromagnetic signals from a plurality of transceivers along a delivery route, the transceivers configured to process the information stored in the transponder to sort, route, or both sort and route the articles during delivery [see at least the **abstract** (e.g. the label has a transmitter and the label makes use of power supplied by RF query signals to fetch the information stored and transmits such information to a label reader located either in a portable recorder or at **sorting locations**. After the information is written into the label, the label is attached to the package. Upon being picked up, the label on the package is read by a portable recorder which transmits the information to a main computer. The packages are then delivered to local hubs of the receiving outlets where information in the labels of the packages are read and the **packages sorted according to the information in the labels on the packages**).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to include Kato in order to provide a method for

tracking items in a package delivery system comprising writing into a plurality of storage labels, each of the labels associated with an item to be delivered, information concerning delivery of the items, said information useful for automated sorting and tracking the items along their passage to destinations; transporting the items and their associated labels; applying query signals to the labels to retrieve the information and causing said labels to provide said information by means of energy of the query signals received by the labels [see **paragraph 7**].

As per claims 6 and 7, Issacman discloses a plurality of transceivers [as illustrated in **figure 2**], one encoding device configured to code the at least one label with information [as illustrated in figure 4, read as: Desktop exciter 26 may be coupled to optical scanner 27, which **reads/captures alpha numerical/bar code and/or RFID information**, which may be, for example, associatively **stored in a database**].

Issacman does not explicitly disclose a predetermined routing device, a delivery destination, a delivery date, a delivery route, information regarding a sender, information regarding a receiver, information regarding the deliverable, and information regarding delivery cost.

However, Streetman discloses a predetermined routing device [as illustrated in figure 1 (e.g. block 130)], a delivery destination [see paragraph 29 (e.g. **shipping destinations or delivery locations**)], a delivery date [see paragraph 31 (e.g. **delivery date criteria**)], a delivery route [see paragraphs 19 and 25], information regarding a sender, information regarding a receiver, information regarding the deliverable [see paragraph 35, via **database 118, database consolidator 112, and database 118** of

figure 1], and information regarding delivery cost [see paragraph 30, ***via computer network 120***].

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Issacman to include Streetman features mentioned above. Such a modification would provide a system and method for consolidating necessary delivery and routing information and generating one or more logistics plans for each delivery [see summary of the invention].

As per claims 10 and 11, Issacman discloses wherein each transceiver is configured to communicate with a predetermined group of transponders [a conventional ***RFID tag system architecture is illustrated in FIG. 1 and includes PC 2, transceiver (transmitter/receiver unit) 4, and passive tag 6. The communication link between PC 2 and transceiver 4 may be via hard wiring, RF, or optical link. Transceiver 4 transmits an RF signal to tag 6, which excites tag 6. Transceiver 4 then receives a response from tag 6, which is transmitted to PC 2 for identifying the characteristics of tag 6***].

Issacman does not disclose that remote assets associated with the predetermined group of transponders. However, Street man discloses that remote assets associated with the predetermined group of transponders [see at least paragraph 18 (e.g. ***wireless communications or any combination thereof may be used to couple the order processor 102 and the order processing system 128***)].

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Issacman to include Streetman remote

assets associated with the predetermined group of transponders feature. Such a modification would provide a system and method for consolidating necessary delivery and routing information and generating one or more logistics plans for each delivery [see summary of the invention].

The combination above does not explicitly disclose sorted and routed to a predetermined delivery path and all other remote assets are routed to a default path. However, Kato discloses sorted and routed to a predetermined delivery path and all other remote assets are routed to a default path [see at least the **abstract** (e.g. the label has a transmitter and the label makes use of power supplied by RF query signals to fetch the information stored and transmits such information to a label reader located either in a portable recorder or at **sorting locations**. After the information is written into the label, the label is attached to the package. Upon being picked up, the label on the package is read by a portable recorder which transmits the information to a main computer. The packages are then delivered to local hubs of the receiving outlets where information in the labels of the packages are read and the **packages sorted according to the information in the labels on the packages**).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to include Kato in order to provide a method for tracking items in a package delivery system comprising writing into a plurality of storage labels, each of the labels associated with an item to be delivered, information concerning delivery of the items, said information useful for automated sorting and tracking the items along their passage to destinations; transporting the items and their

associated labels; applying query signals to the labels to retrieve the information and causing said labels to provide said information by means of energy of the query signals received by the labels [see **paragraph 7**].

9. **Claim 12-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Issacman, in view of Streetman, in view of Strietzel [US 4,418,411], and further in view of Azizi et al. [US 5,525,967].

As per claims 12-15, Issacman discloses a method of routing and tracking deliverables [see filed of the invention (e.g. **devices and methods for locating and tracking**)], comprising:

- providing a plurality of flexible, passive, programmable electromagnetic transponders [as illustrated in figure 4, read as: Desktop exciter 26 may be coupled to optical scanner 27, which **reads/captures alpha numerical/bar code and/or RFID information**, which may be, for example, associatively **stored in a database**].

- an initial step of encoding the transponder with information for use in generating control signals [see at least the abstract (e.g. **a coded RF signal**)];

- receiving at the transceiver a control signal from the transponder in response to the signals [see at least the abstract (e.g. **frequency signal modulated by the energized tag is then directly received by the host transceiver**)];

Issacman does not explicitly disclose that each transponder associated with a respective deliverable and configured to store routing information, issuing signals from a transceiver coupled to a routing device along a delivery path, controlling the routing device to route the deliverable along the delivery path. However, Streetman discloses a

logistics planning information system that store information regarding delivery cost [see paragraph 30, via **computer network 120**];

- a computer system having one or more user interfaces is provided to interact with a routing data consolidator and a routing engine [see abstract];

- issuing signals from a transceiver coupled to a routing device along a delivery path, and controlling the routing device to route the deliverable along the delivery path [see at least the abstract (e.g. ***A routing engine is coupled to the routing data consolidator for receiving the consolidated shipment information on the one or more shipment orders. The routing engine then generates one or more logistics plans for each shipment order by processing the consolidated shipment information***)].

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Issacman to include Streetman in order to provide a system and method for consolidating necessary delivery and routing information and generating one or more logistics plans for each delivery [see summary of the invention].

The combination above does not explicitly disclose purchasing at least one transponder and encoding the transponder with a purchase price. However, Strietzel discloses an apparatus according that is applied to safety against theft in warehouses, lending libraries, etc., the interrogator is located at the exit. As soon as an object gets into the energy field of the interrogator, from which the **price label** equipped with the

transponder or the correspondingly equipped library card has not been removed, the alarm is sounded [see column 6: **lines 57-64**].

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the above combination to include Strietzel in order to provide a method for generating the reply signal of equipment for the automatic identification of objects and/or living beings, including a stationary interrogator and a transponder fastened to the object or the living being, where the interrogator has an energy transmitter, a receiver and an evaluator [see summary of the invention].

Furthermore, Azizi discloses a system and method to monitor the specific location of a person, pet or item of personal property by employing elements that enable the user to pinpoint both the distance and the direction of the person or object being monitored relative to the position of the monitoring or transmission unit (the "source"), comprising a tracking transceiver unit, which tracks and monitors the person or object, and the target transceiver unit, which is worn or affixed to the person or object being monitored.

Azizi's tracking transceiver unit broadcasts a signal to a target transceiver unit, which, upon receiving the signal, will then broadcast a response signal back to the tracking transceiver unit. The tracking transceiver unit's antenna, which comprises a plurality of flat sensor plate-like elements formed together in a generally spherical configuration, picks up the signal and then conveys the information it receives to a special response signal processor unit, which analyzes the data to determine the direction of the person or object being monitored. Information filtered and analyzed

through the response signal processor unit is then conveyed to a central processor unit, which uses the data to calculate the distance of the person or object being monitored from the source [see the abstract].

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to include Azizi system and method for tracking and locating an object in order to provide a system and method to monitor the specific location of a person, pet or item of personal property (the "person or object") by employing elements that enable the user to pinpoint both the distance and the direction of the person or object being monitored relative to the position of the monitoring or transmission unit (the "source") [see summary of the invention].

Examiner's note: The elements are all known but not combined as claimed. The technical ability exists to combine the elements as claimed and the results of the combination are predictable. When combined, the elements perform the same function as they did separately. The prior art differs from the claim by the substitution of some components. The substituted components were known. The technical ability existed to substitute the components as claimed and the result of the substitution is predictable.

Response to Arguments

10. Applicant's arguments with respect to **claims 1-15** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GARCIA ADE whose telephone number is (571)272-5586. The examiner can normally be reached on M-F 8:30AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571.272.3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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/Matthew S Gart/
Supervisory Patent Examiner, Art Unit 3687

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Examiner
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